

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2135.04
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	May 21, 2004
DATE OF REPORT:	June 18, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 20, 2004

COMPLAINT ISSUES:

Whether the School City of East Chicago violated:

511 IAC 7-27-7(d) by utilizing an individualized education program (IEP) that is more than 12 months old;

511 IAC 7-25-7(b) and (c) by failing to conduct an additional evaluation according to proper procedures;

511 IAC 7-27-7(a) by failing to implement the student's IEP, specifically by failing to provide speech therapy services; and

511 IAC 7-25-3(i) by failing to conduct a comprehensive evaluation in all areas related to the student's suspected disability, including an evaluation of communication status.*

FINDINGS OF FACT:

1. The Student is 15 years old and attends the local junior high school. The Student is eligible for special education and related services as a student with a severe mental disability.
2. The Complainant asserts that the IEP currently in use is over 12 months old. However, the current IEP was developed at a CCC meeting on March 22, 2004, and is signed by the Complainant. The previous IEP, developed on May 7, 2003, was set to expire on May 6, 2004.
3. The Complainant gave consent for an educational evaluation on January 27, 2004. The School paid for a psychiatric evaluation of the Student, completed February 19, 2004, as a means of making the school environment safer for him (the Student had thrown a violent tantrum prior to going on a field trip in October 2003, and had recently received homebound instruction). The psychiatrist observed the Student and interviewed both the Student and the Complainant. The psychiatrist's report contains developmental history, observations regarding mental status, and a treatment plan. The CCC meeting was held on March 5.
4. Speech therapy services are not called for in the latest IEP. A report of informal speech and language observations, completed March 31, 2004, by a speech/language pathologist, says that the Student is a nonverbal communicator whose "augmentative system of signs and a picture board system adequately meet his communication needs." A recommendation was made for continued work with the current modalities. A formal speech evaluation on May 4, 2004, did not change the recommendation.

5. The January 27, 2004, General Case Conference Report states that the Student "is due for a reevaluation in March and mother will sign for the testing to occur." The Complainant signed consent on January 27, 2004, for an educational evaluation covering the assessment areas of intelligence, achievement, social and emotional behavior, motor abilities, communication skills, and rate of learning. There is no evidence that these assessment areas were discussed at the January 27 CCC meeting or that the need for an assessment covering these areas was based on data. The reevaluation was not talked about at subsequent CCC meetings on March 5 and March 12, nor were data reviewed at those meetings (other than the psychiatric evaluation conducted on February 19, which served a separate purpose). A psychoeducational evaluation was completed for the triennial reevaluation by a school psychologist on March 10, 2004. The psychologist reviewed previous testing that had been completed on the Student and performed new testing. The IEP of March 22, 2004, does not cite the psychologist who performed those tests, but a previous psychologist who conducted testing for a reevaluation in 2001. Scores rating the Student's adaptive skills, as well as determinations of the Student's physical age, social age, communication age, self-help age, and academic age are taken from the 2001 report. There is no evidence that a review of current evaluation data, including information provided by the parent and current classroom-based assessments and observations, was conducted at the Annual Case Review on March 22. Determinations have been made regarding the Student's needs and eligibility even though this thorough review was not conducted.

CONCLUSIONS:

1. Finding of Fact #2 indicates that a new IEP was developed on March 22, 2004, before the expiration of the previous IEP. Therefore, a violation of 511 IAC 7-27-7(d) has not been found.
6. Finding of Fact #3 indicates that the proper procedures were followed for the additional evaluation completed on February 19, 2004. The results of the evaluation were discussed at the March 5, 2004, CCC meeting, which is well within the 60 instructional days timeline for convening the CCC. Therefore, a violation of 511 IAC 7-25-7(b) and (c) has not been found.
2. Finding of Fact #4 indicates that the Student's IEP, dated March 22, 2004, does not call for speech services. Therefore, a violation of 511 IAC 7-27-7(a) has not been found.
3. Finding of Fact #5 indicates that the School did not conduct a thorough review of current evaluation data for the Student's triennial reevaluation. Therefore, a violation of 511 IAC 7-25-6(d)(1) and (2) has been found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTIONS:

The School City of East Chicago shall:

1. provide an assurance statement to the Division clearly stating all steps will be followed for reevaluations in the future, including the involvement of the CCC and other qualified professionals in a thorough review of evaluation data. This review will be the basis for identifying what additional data, if any, are needed to determine the following: whether the student continues to have a disability as described in 511 IAC 7-26; the present levels of performance and educational needs of the student; whether the student continues to need special education and related services; and whether any additions or modifications to the special education and related services are needed to enable the student to meet

the measurable annual goals set out in the student's individualized education program and to participate, as appropriate, in the general curriculum. **assurance statement to the Division by September 8, 2004.**

2. reconvene the CCC to determine whether and to what extent other evaluation procedures are necessary for the Student, in order to satisfy the requirements of the triennial reevaluation. Update the IEP so that it contains current information provided by the school psychologist on March 10, 2004, and so that discussion regarding the school psychologist's findings is evident. **Provide copies of the CCC report and updated IEP to the Division by September 8, 2004.**